

AMENDMENT TO THE DRAWINGS

The attached Replacement Sheets of drawings includes changes to FIGs 4a AND 5. These Sheets, which include FIGs. 4A and 5, replace the sheets filed with Request for Continued Examination filed on April 27, 2010. FIGs 4A and 5 have been amended to provide more detailed descriptive text labels than the text labels of the previously presented figures.

Attachment: Replacement Sheets (2)

REMARKS

By this amendment, claims 1-5, 7-16, 18-20 and 22-43 are pending, in which claims 6, 17, and 21 have been previously canceled without prejudice or disclaimer, claims 1, 2, 7-11, 26-28, 30-32, 37, 38, 41, and 42 are currently amended, and claim 44 is new. No new matter is introduced.

The Office Action mailed May 20, 2010 objected to drawings Figs. 4A and 5, objected to claims 2, 29, and 40 based on no antecedent basis, rejected claims 30, 31, 41, and 42 under 35 U.S.C. § 101 as being directed to non-statutory subject matter, rejected claims 1, 2, 4, 5, 7-9, 15, 16, 20, 22, 23, 25-33, 36-43 under 35 U.S.C. § 102(b) as being anticipated by *Coley et al.* (US Pub. 2001/0011253A1), rejected claims 3 and 34 under 35 U.S.C. § 103(a) as being unpatentable over *Coley et al.* in view of *Kolakowski* (WO 200249732A1), rejected claims 10-13 under 35 U.S.C. § 103(a) as being unpatentable over *Coley et al.* in view of *Raiz et al.* (US Pub. 2002/0164025A1), rejected claims 14 and 35 under 35 U.S.C. § 103(a) as being unpatentable over *Coley et al.* in view of *Raiz et al.* and further in view of the Applicant's Specification, and rejected claims 18, 19 and 24 under 35 U.S.C. § 103(a) as being unpatentable over *Coley et al.* in view of *Meyer, Michael*, "TCP Performance over GPRS," In proc Wireless Communication and Networking Conference, 1999, WCNC, 1999 IEEE, vol 3.

OBJECTION TO DRAWINGS

The drawings were objected based on alleged lack of detailed descriptive text labels of items 84, 84', and 84'' of FIG. 4A and items 104, 106, and 108 of FIG. 5. FIGS. 4A, and 5 are amended to provide more detailed descriptive text labels of the items. Applicant, therefore, respectfully requests withdrawal of the objections to the drawings.

OBJECTION TO CLAIMS 2, 29, AND 40

In response to the objection, Applicant has amended claim 2 to more particularly point out that “predetermined limits” refer to “the predetermined functional limit.” With respect to the objection to claims 29 and 40, respective independent claims, claim 1 and claim 27 from which these dependent claims depend recite “a mobile terminal device.” Therefore, Applicant respectfully traverses the objection based on lack of antecedent basis. Thus, it is respectfully solicited that the objections be withdrawn.

REJECTION OF CLAIMS 30, 31, 41, AND 42 UNDER 35 U.S.C. § 101

To reduce issues for potential appeal, Applicant has amended claims 30, 31, 41, and 42 by more particularly pointing out that the computer-readable storage medium is “non-transitory.” Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection.

REJECTION UNDER 35 U.S.C. § 102(b)

Claims 1, 2, 4, 5, 7-9, 15, 16, 20, 22, 23, 25-33, and 36-43 were rejected under 35 U.S.C. 102(b) as allegedly anticipated by *Coley et al.*

The Office Action states that *Coley et al.* teaches all features recited in independent claims 1, 32, and 39. Applicant respectfully traverses the argument.

Applicants stress that the factual determination of lack of novelty under 35 U.S.C. §102(b) requires the identical disclosure in a single reference of each element of a claimed invention, as those elements are set forth in the claims, such that the claimed invention is placed into the recognized possession of one having ordinary skill in the art. *Therasense, Inc. v.*

Beckton, Dickenson and Company, 593 F.3d 1289 (Fed. Cir. 2010); *Praxair, Inc. v. ATMI, Inc.*, 543 F.3d 1308, (Fed. Cir. 2008); *Dayco Prods., Inc. v. Total Containment, Inc.*, 329 F.3d 1358 (Fed. Cir. 2003); *Crown Operations International Ltd. v. Solutia Inc.*, 289 F.3d 1367 (Fed. Cir. 2002); *Candt Tech Ltd. v. Resco Metal & Plastics Corp.*, 264 F.3d 1344 (Fed. Cir. 2001). Further, as a matter of procedural due process of law, the Examiner is required to specifically identify where in an applied reference is alleged to disclose each and every feature of a claimed invention, particularly when such is not apparent. *In re Rijckaert*, 9 F.3d 1531 (Fed. Cir. 1993); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452 (Fed. Cir. 1984). Moreover, there are many fundamental differences between the claimed inventions and *Coley et al.* that scotch the factual determination that *Coley et al.* identically discloses, or even remotely suggests, the claimed inventions.

Specifically, claims 1, 32, and 39 recite, *inter alia*: “starting a restricted execution of said application, within **a predetermined functional limit**” and “further restricting the execution of said application, within **a more restrictive functional limit**.” (Emphasis added). These claim features are neither disclosed nor suggested by *Coley et al.*

In the statement of the rejection of claim 1, the Examiner cites paragraph [79] of *Coley et al.* for supposedly disclosing the recited features, by arguing that “paragraph [79], the Check In License procedure can be used to return a license or disable a feature (predetermined functional limit) when the user has completed use of the client application or the feature contained herein” (see, page 6, lines 4-7 of Office Action) and “paragraph [79], the Check In License procedure can be used to return a license or disable a feature (more restrictive functional limit) when the user has completed use of the client application or the feature contained herein” (see, page 6, lines 14-17 of Office Action). The Examiner ignores the difference between recited features in the

above steps “**a predetermined functional limit**,” and “**a more restrictive functional limit**” by citing paragraph [79] which merely describes “[t]he Check In License procedure can be used to return a license or disable a feature when a user has completed use of the client application or a feature contained therein.” *Coley et al.* merely discloses a single operation to “return a license or disable a feature.”

By contrast, claim 1 recites, among other features, “starting a restricted execution of said application, within **a predetermined functional limit**” and “further restricting the execution of said application, within **a more restrictive functional limit**.” (Emphasis added). In other words, latter functional limit is more restrictive than the former predetermined functional limit. However, the *Coley et al.* does not teach any different restrictive levels of functional limits. Therefore, *Coley et al.* does not disclose or even suggest all of the features of independent claim 1 arranged or combined in the same way as recited in the claims. Because the other independent claims 32 and 39 recite similar features, the arguments advance above similarly applied to the rejection of these independent claims.

The Office Action states that *Coley et al.* teaches all features recited in independent claims 27 and 37. Applicant respectfully traverses the argument.

In the statement of rejection of claim 27, the Examiner states that method recited in claim 27 is receiving side of the method claim 7 and rejected for the same reasons as claim 7. However, the claim language and its functions are different from claim 7. Therefore, without articulating the reason for rejection specific to claim 27, a *prima facie* basis to deny patentability is not established. Accordingly, Applicant respectfully requests that detailed reasons for the rejection be provided or the withdrawal of the anticipation rejection.

Additionally, with respect to the rejection of claim 7, the Examiner argues that all features are disclosed by *Coley et al.* citing paragraphs [0046] through [0048]. However, Applicant notes the recited features of claim 27 including “generating, at the surveillance center, an authorization to a restricted execution of said application within predetermined functional limits on said mobile terminal device,” are not disclosed by *Coley et al.* These paragraphs merely describe a null indication in a license ID field and a license ID in the license ID field. By contrast, claim 27 recites “an **authorization to a restricted execution** of said application **within predetermined functional limits.**” (Emphasis added). In other words, this authorization is to execute the application with functions somewhere between full functions and no function. *Coley et al.* merely teaches only two types of licenses, a license ID and null license, and fails to disclose any license ID for execution within predetermined functional limits.

Therefore, Applicant submits that *Coley et al.* does not disclose or even suggest all of the features of independent claim 27 arranged or combined in the same way as recited in the claims. The argument advanced above applies to independent claim 37 which recites features similar to claim 27.

Thus, it is respectfully requested that the rejections to claims 1, 2, 4, 5, 7-9, 15, 16, 20, 22, 23, 25-33, and 36-43 under 35 U.S.C. § 102(b) predicated upon *Coley et al.* be withdrawn.

REJECTION UNDER 35 U.S.C. § 103(a)

Claims 3, 10-14, 18, 19, 24, 34, and 35 were rejected under 35 U.S.C. § 103(a) predicated upon *Coley et al.* and various references.

These rejections are respectfully traversed. Claims 3, 10-14, 18, 19, 24, 34, and 35 are dependent from claims 1 and 32. Applicant incorporates, herein, the arguments previously

advanced in traversing the imposed rejection of claims 1 and 32 U.S.C. § 102(b) for anticipation predicated upon *Coley et al.* The additional references do not cure the deficiencies of *Coley et al.* In fact, the references are not even directed to the above argued claim features. Accordingly, even if the applied references were combined as proposed by the Examiner, and Applicant does not agree that the requisite fact-based motivation has been established, the claimed invention would not result. See *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir. 1988). Thus, it is respectfully requested that the obviousness rejection of claims 3, 10-14, 18, 19, 24, 34, and 35 be withdrawn.

CONCLUSION

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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Date

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